



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0063; Notice 2; Docket No. NHTSA-2017-0065; Notice 2]

Autocar Industries, LLC and Autocar, LLC, Grant of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petitions.

SUMMARY: Autocar Industries, LLC and Autocar, LLC (collectively referred to as "Autocar"), have determined that certain model year (MY) 2014-2018 Autocar Xspotter and Xpeditor trucks do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*. Autocar filed noncompliance reports dated June 12, 2017; June 14, 2017; and later revised one of their reports on August 29, 2017. Autocar also submitted two petitions to NHTSA on June 19, 2017, and submitted supplemental petitions on August 29, 2017, for a decision that the subject noncompliance, present in each model, is inconsequential as it relates to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**I. Overview:**

Autocar has determined that certain MY 2014-2018 Autocar Xspotter and Xpeditor trucks do not fully comply with Table 2 of FMVSS No. 101, *Controls and Displays* (49 CFR 571.101). Autocar filed noncompliance reports dated June 12, 2017; June 14, 2017; and later revised one of their reports on August 29, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Autocar also submitted two petitions to NHTSA on June 19, 2017, and submitted supplemental petitions on August 29, 2017, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556.

Notices of receipt of the petitions were published with a 30-day public comment period, on August 16, 2017, in the **Federal Register** (82 FR 38995) and (82 FR 38999). No comments were received.

II. Vehicles Involved:

Approximately 644 MY 2014-2018 Autocar Xspotter trucks, manufactured between September 12, 2013 and August 4, 2017, and approximately 5,545 MY 2014-2018 Autocar Xpeditor trucks,

manufactured between September 3, 2013, and June 2, 2017, are potentially involved.

III. Noncompliance:

Autocar explains that the noncompliance is that the low brake air pressure telltale for air brake systems displays the word "BRAKE PRESSURE" along with a symbol specified in Canadian Motor Vehicle Safety Standard (CMVSS) 101 rather than the words "Brake Air" as specified in Table 2 of FMVSS No. 101. Autocar states that the telltale is accompanied by an audible alert and pressure gauges.

IV. Rule Requirements:

Paragraphs S5 and S5.2.1 of FMVSS No. 101, include the requirements relevant to this petition:

- Each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale, or an indicator listed in Table 1 or Table 2 must meet the requirements of FMVSS No. 101 for the location, identification, color, and illumination of that control, telltale or indicator.
- Each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2.

V. Summary of Petition:

Autocar described the subject noncompliance and stated it believes that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of Autocar's petitions, the company submitted the following arguments:

- a) Autocar notes that the purpose of the low brake air pressure telltale is to alert the driver to a low air condition, consistent with the requirements of FMVSS No. 121, S5.1.5 (warning signal). The words "BRAKE PRESSURE" instead of "Brake Air," together with display of the CMVSS required symbol and sounding of an audible alert that occurs inside the subject vehicles would alert the driver to an air pressure issue with the brake system. Once alerted, the driver can check the actual air pressure by reading the primary and secondary air gauges and by observing the contrasting color on the gauges indicating low pressure.
- b) NHTSA stated in a 2005 FMVSS No. 101 rulemaking that the reason for including vehicles over 10,000 pounds GVWR in the application of the standard is that drivers of heavier vehicles need to see and identify their displays, just like drivers of lighter vehicles. See 70 FR 48295, 48298 (Aug. 17, 2005). Drivers of commercial vehicles conduct pre-trip

daily inspections. For vehicles with pneumatic brake systems, the in-cab checks of the air-brake warning light and buzzer would familiarize the driver with the specific telltale display and audible warning in the event a low-air condition was to occur during operation.

c) There are two scenarios when a low brake air pressure condition would exist: a parked vehicle and a moving vehicle. In both conditions, the driver would be alerted to a low-air condition by the following means:

- Red contrasting color of the telltale indicating "BRAKE PRESSURE"
- Audible alert to the driver as long as the vehicle has low air
- Air pressure gauges for the primary and secondary air reservoirs clearly indicating the level of air pressure in the system
- Red contrasting color on the air gauges indicating pressure below 60 PSI

The functionality of both the parking brake system and the service brake system remains unaffected by using "BRAKE PRESSURE" instead of "Brake Air" for the telltale in the subject vehicles.

d) NHTSA Precedents - Autocar notes that NHTSA has previously granted petitions for inconsequential noncompliance for similar brake telltale issues. See Docket No. NHTSA-2012-0004, 78 Fed. Reg. 69931 (November 21, 2013) (grant of petition for Ford Motor Company); Docket No. NHTSA-2014-0046, 79 Fed. Reg. 78559 (December 30, 2014) (grant of petition for Chrysler Group, LLC); and Docket No. NHTSA-2016-0103, 82 Federal Register 17084 (April 7, 2017) (grant of petition for Daimler Trucks North America). In all of these instances, the vehicles at issue did not meet the exact requirements listed in FMVSS No. 101, Table 2. The available warnings, however, were deemed sufficient to provide the necessary driver warning. Autocar respectfully suggests that the same is true for the subject vehicles: the red "BRAKE PRESSURE" telltale, the audible alert, and the contrasting colors on the air pressure gauges are fully sufficient to warn the driver of a low brake air pressure situation.

Autocar concluded by expressing their belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that NHTSA should grant Autocar's petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120.

Autocar's petitions and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and following the online search instructions to locate the docket numbers listed in the title of this notice.

VI. NHTSA's Analysis:

NHTSA has considered the arguments presented in Autocar's petitions and has determined that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA believes that the subject noncompliance poses no risk to motor vehicle safety because multiple sources of information, as described in the petition and discussed below, are simultaneously activated to warn the driver of a low air condition.

1. When a low air pressure situation exists, for both a parked or moving vehicle, the "BRAKE PRESSURE" telltale will activate in red letters with a black background. There are no requirements in FMVSS No. 101 for the color of the telltale, but Autocar's use of red, which is an accepted color representing an urgent condition, provides a definitive indication of a situation that needs attention.
2. Simultaneous to illumination of the "BRAKE PRESSURE" telltale is activation of an audible alert, further notifying the operator that a malfunction exists requiring

corrective action. Although the alert would not in and of itself identify the problem, a driver would be prompted by the warning tone to heed the telltale (i.e. "BRAKE PRESSURE").

3. In a low-pressure situation, the operator is provided additional feedback by the primary and secondary instrument cluster air gauges which are marked with numerical values in PSI units along with red contrasting colors on the gauges during a low-pressure condition.
4. Further, NHTSA agrees with Autocar's contention that the functionality of the parking brake system and the braking performance of the service brake system remain unaffected by use of the telltale wording "BRAKE PRESSURE" instead of "Brake Air" on the subject vehicles.
5. Lastly, NHTSA believes that, as the affected trucks are predominately used as commercial vehicles with professional drivers, operators will monitor their vehicle's condition and take note of any warning signs and gauge readings to ensure proper functionality of all systems. Autocar states, and the agency agrees, that professional drivers will be familiar with the meaning of telltales and other warnings, and that the feedback provided to the driver in these vehicles if a low brake pressure condition exists would be well understood.

NHTSA concludes that simultaneous activation of the red "BRAKE PRESSURE" telltale with a black contrasting background, an audible alert for a low air pressure condition, along with the primary and secondary air gauge indicators, and the reduced drivability of the vehicles under a low air pressure condition, provide adequate notification to the operator that a brake malfunction exists. NHTSA further concludes that the discrepancy with the telltale requirement is unlikely to lead to any misunderstanding since other sources of correct information beyond the "BRAKE PRESSURE" telltale are always provided.

VII. NHTSA's Decision:

In consideration of the foregoing, NHTSA finds that Autocar has met its burden of persuasion that the FMVSS No. 101 noncompliance is, in each case, inconsequential as it relates to motor vehicle safety. Accordingly, Autocar's petitions are hereby granted, and Autocar is consequently exempted from the obligation to provide notification of, and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and

dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that Autocar no longer controlled at the time it determined that the noncompliance existed. However, the granting of these petitions does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Autocar notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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